

Maintaining Congressional Momentum: 2006 Saw a Flurry of HIM Legislative Activity; 2007 Promises More

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by Don Asmonga, MBA

Last year saw a number of HIM issues take center stage in Washington, and we expect the whirlwind of activity to continue this year. However, 2007 will see changing elements that will define how we proceed in the 110th Congress and beyond. The 2006 elections will have lasting effects on the consideration of health IT and HIM issues.

Dramatic Results in the 2006 Elections

In November the Democrats won control of the House and Senate. Unfortunately, the elections took a toll on some of our closest allies. Nancy Johnson (R-CT), chair of the House Ways and Means Health Subcommittee, lost her seat, while Bill Thomas (R-CA), chair of the House Ways and Means Committee, announced his retirement. Nearly as important as losing the Congress members is losing their staffs. Johnson, Thomas, and their respective staffs truly understood the importance of HIM and the role of HIM professionals in the healthcare industry.

Major changes have taken place on key House committees. Charles Rangel (D-NY) now chairs the House Ways and Means Committee, and Pete Stark (D-CA) chairs the House Health Subcommittee. John Dingell (D-MI) chairs the House Energy and Commerce Committee. Frank Pallone (D-NJ) is expected to chair the House Health Subcommittee.

Major changes also took place on key Senate committees. Edward Kennedy (D-MA) now chairs the Senate Health, Education, Labor, and Pensions Committee. Max Baucus (D-MT) chairs the Senate Finance Committee, replacing Charles Grassley (R-IA).

Last year was an amazing year politically. It saw electoral discord that, in a matter of months, resulted in a shift in the balance of power in Washington. Now the question is, how will the Democrats govern in the majority? And how will President Bush engage them on critical issues? Looking ahead, 2008 will be a critical year as the Democrats work to retain and build upon their congressional majorities while also pushing to take the White House.

As we move into the 2008 elections, consider that this will be the first presidential election since 1968 without an incumbent (president or vice president) on the ticket for either party. Republicans will also have to defend 21 of the 34 seats up for grabs in the Senate.

Knowing what is at stake, the window for legislative accomplishment is narrow. This year may be the time for bipartisan accord on legislation.

A Health IT Bill in '07?

The fate of health IT legislation this year was determined by what was achieved at the end of 2006. The Senate unanimously passed the Wired for Health Care Quality Act (S. 1418). In the House, Rep. Nancy Johnson introduced the Health Information Technology Promotion Act (HR 4157). The House passed HR 4157 with a veto-proof vote of 270-148 on July 27, 2006.

Unfortunately, this was not enough. The House and Senate bills were quite different, and negotiators were not able to develop a compromise between them. Therefore, it is back to the drawing board.

Although Congress was not able to pass legislation in 2006, we do not view the year's work as a complete loss. As a result of efforts by AHIMA and our allies, HR 4157 included language that called for the implementation and use of ICD-10-CM and -PCS by October 1, 2010. Further, the language included additional provisions that would upgrade the HIPAA claims

attachment standard and also change the HIPAA standards adoption process to enable more efficient updating. These are critical components, and we will be advocating for them again in 2007.

Numerous health IT bills dealing with a wide range of health IT and HIM issues were introduced in the 109th Congress. In the 110th Congress, we again expect to see legislation that will cover:

- Health IT (in general)-codifying the Office of the National Coordinator for Health Information Technology, exceptions to the Stark antikickback rules, grant and loan funding for health IT implementation, and interoperability standards
- Personal health records-interoperability, access to and availability of data, and standards
- Health record banking-third-party repositories for personal health information
- Health information exchange-exchanging data electronically between regional participants

Privacy, security, and genetic nondiscrimination are other issues that will come up for consideration. We expect to see language or legislation that includes requirements for informed written consent for the use and disclosure of health information; consumer notification for information breaches and illegal access; establishment of a private right of action for those who have been harmed; stiffer penalties for illegal use and disclosure of health information; and maintenance of HIPAA's status as a "floor" of protection.

Privacy may be a part of a health IT bill, or it may move independently. There is some belief that Congress will try to quickly pass genetic nondiscrimination legislation because of the strong support from Democrats, Senate Republican leadership, rank-and-file Republicans in the House, and the White House. In the 109th Congress, the Genetic Information Nondiscrimination Act (S. 306) passed the Senate 98-0. Its House counterpart, HR 1227, acquired 244 cosponsors but did not pass due to opposition from the Republican leadership.

AHIMA will work closely with the new Congress on privacy and genetics. One issue will be nondiscrimination on the basis of health information, not just genetic information.

Due to the Senate and House's success in passing health IT legislation, it is expected that Congress will attempt to pass a health IT bill in 2007. With the Republican electoral loss, several barriers have been removed, including opposition from rank-and-file House Republicans to authorizing funding for health IT projects; statutorily creating the Office of the National Coordinator for Health Information Technology; and dedication to a wide Stark antikickback exemption or safe harbor.

Back to Work on Work Force Issues

When the 109th Congress began, work force was on the top of AHIMA's legislative advocacy list. By the time the 109th Congress ended, passing work force legislation had become a secondary issue. Our shifting priorities were due to the fast-changing health IT landscape and the emergence of health IT legislation.

Although 2006 was absent of any legislative hearings or consideration of work force legislation, AHIMA and the American Medical Informatics Association, our advocacy alliance partner, were still successful in getting new legislation introduced in the House.

Rep. David Wu (D-OR) introduced the 10,000 Trained by 2010 Act (HR 5605). This legislation took a new approach by authorizing funding and creating programs within the National Science Foundation for healthcare information and informatics education.

We expect this bill to be introduced early in 2007 and have high expectations for its consideration. With the Democrats in the majority, Wu will chair the Subcommittee on Environment, Technology, and Standards of the House Science Committee, the place where this bill will first be considered.

It is important to note that AHIMA also strongly supported the Allied Health Professions Reinvestment Act (HR 215) introduced by Rep. Cliff Stearns (R-FL) and the Allied Health Reinvestment Act (S. 473) introduced by Rep. Maria Cantwell (D-WA). These bills did not receive any consideration but will be introduced early in the 110th Congress.

Finally, with Senator Edward Kennedy (D-MA) assuming the chairmanship of the Senate Health, Education, Labor, and Pensions Committee, it is very likely that the committee will look to reauthorize the allied health education and nursing

How to Get Involved

This year will bring many challenges. The new Congress requires new education efforts, introductions, and relationship building in order for us to pursue our HIM initiatives. Many new obstacles and opportunities are before us, and we will need your help to succeed. How can you help?

- Send introductory letters to your elected officials and build relationships back home
- Respond to our calls for action by sending letters from the Advocacy Action Center of the Advocacy Assistant (access the Advocacy Assistant at www.ahima.org/dc)
- Attend AHIMA's Capitol Hill Day on March 21 and help us surpass our 2006 record of 140 attendees, 175 meetings, and 40 states
- Plan a Hill Day in your state

We begin 2007 with momentum from our HIM activity in 2006. With your help, we expect to achieve the many goals on our agenda.

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Article citation:

Asmonga, Donald D.. "Maintaining Congressional Momentum: 2006 Saw a Flurry of HIM Legislative Activity; 2007 Promises More" *Journal of AHIMA* 78, no.2 (February 2007): 18,20.

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